

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTONIO CORTEZ BUCKLEY,

Plaintiff,

No. CIV S-02-1451 DFL KJM P

vs.

EDWARD S. ALAMEIDA, JR.,

Defendants.

ORDER

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Plaintiff is a California prisoner proceeding pro se with an action for violation of civil rights under 42 U.S.C. § 1983. This matter is currently scheduled for trial on April 30, 2007. Both parties have filed objections to the court's December 4, 2006 pretrial order.

Plaintiff makes several objections. First, plaintiff asks that the court identify several more facts as "undisputed" in the pretrial order. Plaintiff's objection will be overruled as it is not clear whether the facts identified by plaintiff are disputed by defendants. Plaintiff is informed that he and the defendants are free to stipulate to any factual matters prior to trial.

Next, plaintiff asserts the court should have included several more "disputed" factual issues" in the pretrial order. The court correctly identified the disputed issues. Plaintiff's objection will be overruled.

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1 Plaintiff asks that the court identify in the pretrial order the specific amount
2 plaintiff seeks in compensatory and punitive damages. This is not necessary. Plaintiff's
3 objection will be overruled.

4 Plaintiff objects to the exhibits identified by the court in the pretrial order.
5 Plaintiff's objection that plaintiff's exhibit number 4 should be identified as 602 appeal no.
6 HDSP-C-01-02426 will be sustained. Plaintiff has not shown cause for any further modification
7 to plaintiff's list of exhibits.

8 Plaintiff asserts that the court neglected to identify defendant Stone and defendant
9 Perez's answers to interrogatories as "Discovery Documents" in the pretrial order. It appears
10 plaintiff did identify defendant Perez's answers in his pretrial statement (p. 18) as a "Discovery
11 Document." However, plaintiff did not identify defendant Stone's answers. Plaintiff's objection
12 will be sustained with respect to Perez's answers and overruled with respect to Stone's.

13 Finally, plaintiff objects to the court's assertion that trial should take three days;
14 plaintiff asserts it will take four days. There is no need to modify the pretrial order as plaintiff
15 suggests as the time for trial indicated is an estimate. This objection will be overruled.

16 Defendants assert that they inadvertently failed to identify certain exhibits to be
17 used at trial in their pretrial statement and have now filed a list of those exhibits. Good cause
18 appearing, defendants will be allowed to use the exhibits identified in their December 19, 2006
19 objections at trial. Defendants will ordered to provide plaintiff with copies of the exhibits in the
20 manner identified in the pretrial order within ten days of this order.

21 The court also notes that on January 16, 2007, plaintiff filed a request that this
22 court take "judicial notice." The court can take notice of certain facts under Federal Rule of
23 Civil Procedure 201 when a factual determination must be made to resolve a matter before the
24 court. There are no matters before the court at this time in which judicial notice would be
25 appropriate. Plaintiff's January 16, 2007 request will be denied.

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1 In accordance with the above, IT IS HEREBY ORDERED that:

2 1. Plaintiff's December 15, 2006 objections to the court's December 4, 2006
3 pretrial order are sustained and overruled as follows:

4 A. Plaintiff's objection that plaintiff's exhibit number 4 be identified as
5 602 appeal no. HDSP-C-01-02426 is sustained. Plaintiff may use that
6 exhibit as it is identified herein at trial.

7 B. Plaintiff's objection that defendant Perez's answers to plaintiff's
8 interrogatories be identified as a "Discovery Document" in the pretrial
9 order is sustained.

10 C. Plaintiff's objections are overruled in all other respects.

11 2. Defendants' December 19, 2006 objection to the court's December 4, 2006
12 pretrial order is sustained. The exhibits identified by defendants in their December 19, 2006
13 objection may be used by defendants during trial. Defendants shall provide plaintiff with a copy
14 of the exhibits in the manner identified in the pretrial order within ten days of this order.

15 3. Plaintiff's January 16, 2007 request for "judicial notice" is denied.

16 DATED: January 31, 2007.

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18 U.S. MAGISTRATE JUDGE

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